

**BEFORE THE ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION**

**IN THE MATTER OF:**

**FORMER CEDAR CHEMICAL FACILITY  
HELENA-WEST HELENA, AR  
AFIN: 54-00068  
EPA ID No. AR990660649**

**Docket No. 10-003**

2010 JUL -1 PM 3:27  
AR-POLLUTION CONTROL  
& ECOLOGY COMMISSION  
FILED BY *PLB*

**HELENA CHEMICAL COMPANY'S  
REQUEST FOR COMMISSION REVIEW**

Helena Chemical Company for its Request for Commission Review states:

1. This Request for Commission Review is filed pursuant to Arkansas Pollution Control and Ecology Commission (APCEC) Regulation No. 8, §§ 8.601(H), 8.603(B)(9) and 8.603(C)(1)(f). Helena Chemical Company seeks Commission review of a decision of the Director of the Arkansas Department of Environmental Quality's (ADEQ) on June 3, 2010 to issue a Remedial Action Decision Document (RADD) for the Former Cedar Chemical Facility (the Facility). The Facility is located 1.25 miles southwest of the intersection of U.S. Highway 49 and State Highway 242, Helena-West Helena, Phillips County, Arkansas.

2. Helena Chemical Company does not own the Facility; nor does it own or have any interest in any personal or real property that is located near the Facility, affected by conditions at the Facility, or affected by any substance or pollutant emanating from or originating at the Facility.

3. In March of 2007, Helena Chemical Company and two other parties entered into a Consent Administrative Order, LIS 07-027, (the CAO) with ADEQ to address environmental concerns at the Facility.



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4. Under the CAO and a related "Separate Agreement," Helena Chemical Company and ExxonMobil Corporation agreed to conduct a comprehensive study of conditions and to submit a Feasibility Study identifying potential remedies.

5. On November 16, 2007, Helena Chemical Company and ExxonMobil Corporation submitted to ADEQ a Current Conditions Report (CCR) which compiled all the available data, including site history, past environmental conditions, and historical ownership information, and identified critical data gaps. ADEQ approved the CCR with very minor changes.

6. On March 20, 2008, Helena Chemical Company and ExxonMobil Corporation submitted a Facility Investigation Work Plan which was approved by ADEQ.

7. In February, 2009 Helena Chemical Company and ExxonMobil Corporation submitted a Facility Investigation Report to ADEQ. The Facility Investigation Report was approved by ADEQ with very minor modifications.

8. On December 15, 2009, Helena Chemical Company and ExxonMobil Corporation submitted a Feasibility Study Report (FS) to ADEQ. The FS evaluated remedial alternatives and identified the proposed remedial measures for the Facility. ADEQ accepted the FS as final.

9. On February 24, 2010, ADEQ issued a draft Remedial Action Decision Document (RADD). The purpose of the RADD was to select the remedy that ADEQ planned to implement at the Facility.

10. Helena Chemical Company submitted written and oral comments on the draft RADD to ADEQ during the public comment period which closed on March 25, 2010.

11. On June 3, 2010, ADEQ issued the final RADD. The final RADD is a Director's decision which is subject to Commission Review pursuant to ADPCEC Regulation No. 8, §§ 8.601(H), 8.603(B)(9) and 8.603(C)(1)(f).

12. The final RADD departs in certain respects from the analysis and recommendations of the FS and fails to properly evaluate and apply the risk assessment analysis presented in the FS. The Director's decision to depart from the recommendations of the FS and the failure to properly evaluate and apply the risk assessment analysis are unwarranted and inappropriate. Helena Chemical Company believes that it is or may be injured in its person or property by the RADD's deviation from the recommendations of the FS and therefore requests Commission review and an adjudicatory hearing with respect the RADD's departures from the recommendations of the FS.

13. Helena Chemical Company will offer the following evidence in support of this request for Commission review:

- a. CAO in LIS 07-027;
- b. the November 16, 2007 CCR;
- c. the March 20, 2008 Facility Investigation Work Plan;
- d. the March 25, 2008 Agreement with ADEQ;
- e. the February 2009 Facility Investigation Report;
- f. the December 15, 2009 Feasibility Study;
- g. the February 24, 2010 proposed RADD
- h. Helena Chemical Company's comments on the draft RADD
- i. the June 3, 2010 final RADD;
- j. ADEQ's response to comments on the draft RADD.

Helena Chemical Company reserves the right to offer as evidence all documents or other evidence considered by ADEQ or the Director in making the decision to issue the final RADD and all documents or other evidence relevant to the Director's decision.


14. Helena Chemical Company requests a full evidentiary hearing on this matter and further requests the opportunity for oral argument before the Commission.

WHEREFORE, Helena Chemical Company respectfully requests that the Commission:

- a. Review and conduct an adjudicatory hearing on the Director's decision to issue the final RADD;
- b. Find that the Director's decisions with respect to the final RADD's deviation from the recommendation of the Feasibility Study are unwarranted, inappropriate, and not supported by or based upon sound science or engineering.
- c. Remand the final RADD to the Director with instructions to revise the RADD to follow the recommendations of the Feasibility Study; and
- d. Grant Helena Chemical Company all other relief to which it may be entitled.

Respectfully submitted,

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By: 


Allan Gates, AR Bar 72040  
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## CERTIFICATE OF SERVICE

I, Marcella J. Taylor, do hereby certify that I have served a copy of the foregoing Request for Commission Review and Adjudicatory Hearing upon the following individuals by electronic delivery and by U.S. mail, postage prepaid, this 1<sup>st</sup> day of July 2010:

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Marcella J. Taylor